



## CITY OF HAYWARD AGENDA REPORT

Planning Commission  
Meeting Date 06/29/00  
Agenda Item 1

TO: PLANNING COMMISSION

FROM: Sheldon McClellan, Senior Planner  
Arlynne Camire, Associate Planner

SUBJECT: Vesting Tentative Map Tract 7191, Use Permit, Site Plan Review & Variance 99-130-16, and a Request to Vacate a Portion of Sutro Street – **Denova** Homes, Inc. (Applicant); Zaballos Family Trust, Anthony L. & Melba Farcich Trust, Et Al (Owners)

- a. Vesting Tentative Map Tract 7191 – Request-to subdivide a 6.7 acre site into 162 lots for the development of 161 townhomes and one parcel for common open space.
- b. Use Permit – Request to allow multi-family residential units on the first floor for those units (144) that fall within the CC-C subdistrict.
- c. Site Plan Review - Request to construct 161 multi-family dwelling units within 30 three-story buildings **and** other recreation structures on 6.7 acres.
- d. Variances and Waiver – Request variances to allow a reduction in the side yard and rear yard setbacks for 11 townhomes and a reduction in the garage width for one of two parking spaces for each unit of townhouse model types **A, B and D**.
- e. Vacation of Portion of Sutro Street – Request to vacate a portion of Sutro Street.

The property is located on the east side of Grand Street, approximately 295 feet south of D Street; with additional frontage (approximately 485 feet/no vehicular access) on the south side of D Street west of the railroad grade separation; and with approximately 30 feet of frontage along **the** west side of Sutro Street at its proposed terminus after vacation of **the** north end of the street. The property lies within the CC-C (Central City-Commercial) and CC-R (Central City-Residential) Sub-Districts.

## RECOMMENDATION:

That the Planning Commission recommend that the City Council:

1. Approve the Mitigated Negative Declaration;
2. Approve Vesting Tentative Map Tract 7191;
3. Approve Use Permit and Site Plan Review Application;

Approve the Variance Application That the Planning Commission recommend that the City Council:

4. Approve the Mitigated Negative Declaration;
5. Approve Vesting Tentative Map Tract 7191;
6. Approve Use Permit and Site Plan Review Application;
7. Approve the Variance Application and Waivers; and
5. Find that the vacation of a portion of Sutro Street is consistent with the General Plan,

## DISCUSSION:

### Adjacent Land Use and Zoning

North	Across D Street is the new <b>192-unit</b> Pinnacle City Centre rental condominium project on a 6.4-acre parcel. [CC-C Subdistrict]
East	Union Pacific Railroad and BART tracks (elevated above the property grade). East of the tracks is vacant land and the vacated Ranch Restaurant and parking area. [CC-R Subdistrict]
south	The predominant character of the area is a mixture of older multi-family and single-family residential units at a density of approximately 28.9 units per acre. However, a newer <b>8-unit</b> condominium project, developed in 1991, is located on the northeast corner of Grand and D Streets. [CC-R Subdistrict] A mixture of apartments and single-family dwellings backs onto the property and has their access from either Dean or Sutro Streets. Also abutting the property and on the east side of Sutro Street is a two-story commercial building occupied by Hayward Blueprint Company. [CC-C Subdistrict]
West	A mixture of single-family and multi-family dwellings. Adjacent to the property [CC-R Subdistrict], across Grand Street[ <b>RM</b> District]

## Property Description

The 6.7-acre site is comprised of 8 separate parcels that have been assembled by the applicant and includes the approximately 375-foot northerly portion of Sutro Street that the applicant is requesting to be vacated and made a part of the development site. The largest of the parcels is 2.68 acres in area and is developed with the former Grand Lanes Bowling Alley is now closed. This parcel has approximately 176 feet of frontage along the east side of Grand Street and additional frontage on Sutro Street. The remaining parcels front the end of Sutro Street and are developed with various commercial and industrial-type uses and one single-family dwelling located at 22870 Sutro Street. The combined parcels at the terminus of Sutro Street and the street right-of-way provide approximately 485 feet of frontage along D Street. The land is generally flat. D Street slopes down to approximately 20 feet below the site grade as it passes under the railroad bridge. The public sidewalk does not follow the street level, but rises behind the subway wall and is contiguous with the property level. The site is void of any major trees or significant landscaping. All buildings on the property and other improvements, including the low concrete wall along the sidewalk fronting D Street, will be removed.

## Development Proposal:

A site plan review and use permit application is required for this project. Multi-family dwellings located on the ground floor within the Central City-Commercial Subdistrict require a use permit.

The project site is within walking distance (approximately 1550 feet/0.3 mile) of the downtown BART station. In keeping with other downtown projects, the applicant proposes a townhouse project that will be compatible with the recently completed Pinnacle City Centre stacked condominiums across D Street, the Atherton Place townhomes and City Walk townhomes. The project density is 24.13 dwelling units per net acre. The project type and layout are very similar to the Atherton Place townhomes and similar floor plans are being proposed. The buildings are three stories high with parking on the ground floor level with two levels of living space above.

The townhomes facing both Grand and D Streets have been designed with the main entrances of the units to be oriented to the street as was done with Atherton Place along Atherton and C Streets. The proposed units, however, are a little different from the Atherton Place units, in that they are designed to have raised front porches that face the street. Separate internal private streets within the project serve the garages to these units and no garages will be visible from either "D" or Grand Streets. In addition, 55 (34%) of the project's interior units have front porches on one side and the garages on the opposite side of a particular building. Also, most of the project is served by a series of sidewalks that circulate through the project

The applicant states that the sidewalks and front porches have been designed to encourage circulation and to promote interaction between the residents. In addition, the applicant chose to not install security gates on the perimeter of the project. The applicant believes that it is

important to integrate the project into the neighborhood as opposed to isolating the new and existing communities from one-another.

Even though **the** D Street frontage is quite sizeable, **the** grade separation **with the** overhead BART and railroad tracks does not allow for vehicular access. Nevertheless, the plan was developed so that two pedestrian access gates will be provided to allow all project interior units to have pedestrian access to the downtown area and the **BART** station. These pedestrian gateways will be enhanced with trellis-like structures that incorporate tapered columns to match the Craftsman elements on the dwellings.

The applicant proposes the construction of 161 townhouses within 30 three-story buildings and augmented by a project lounge (meeting room) and spa room within the centrally located group open space area. The project is to be named “Grand Place” and will compete **with** other market demand units that are located near the Downtown BART station. The massing of the 30 residential buildings is varied with buildings containing between 2 and 10 units each. About 39 percent of the row-house buildings have a length of 112 feet to 160 feet and contain 7 to 10 units each. For comparison, the length of buildings within the Pinnacle City Centre project is 142 feet. Another 54 percent of the buildings are shorter and contain four or five units each. Four basic floor plans are proposed. All the units are located along a private street system that connects to both Grand Street and **the** terminus of ‘Sutro Street. Even though **the** applicant was unable to obtain and to include a number of developed properties located at the southeast corner of Grand and D Streets into the project site, the proposed project layout takes **this** adjacent land into consideration and allows for future expansion of the project onto this abutting land with its internal street system and pedestrian paths. A total of 69 units (43 percent of the total project) will have 3 bedrooms and 3 baths. The remainder (92) of the units will all be 2 bedrooms and 2½ baths. The 4 floor plans range in size from 1,075 to 1,640 square feet. The largest unit is model D that contains 2 bedrooms and is different from **all** the other **townhomes** because of their radiant layout around a decorative street circular pattern near the Grand Street entrance.

All units have 2 parking spaces (double-wide garages or tandem spaces), except 13 special “B” units that have only a single-car garage. A second %-covered carport space is located in front of the garage door. In addition to covered parking for each unit, 28 open visitor spaces are proposed throughout the project. The number of on-site parking exceeds City requirements. Where a total of 242 parking spaces (1.5 spaces/unit) are required, 350 spaces and a ratio of 2.17 spaces per unit have been provided on site. While the number of provided parking spaces far exceeds the required number, All but the 28 visitor spaces are within the footprint of the dwellings and thus cannot be traded for open space or greater setbacks to allow landscaping in front of the **dwellings** without reducing the number of proposed units. Some of the garage spaces do not meet minimum width requirements and necessitate a variance for approval.

In keeping with the City policy of encouraging the development of ownership-type housing throughout the City, the applicant proposes that the townhouse units be sold. The vesting tentative map indicates that land sales will occur under each townhouse.

The applicant has proposed a project density that will take advantage of the site's proximity to the BART station and the downtown, while creating a community that would serve as a transition between its existing, established neighbors to the south and the new Legacy Partners project (Pinnacle City Centre) to the north. The challenges associated with developing this site stem from its irregular shape, its proximity to the BART and railroad tracks, its proximity to a large number of diverse existing structures, and the fact that the developer is proposing townhouse type structures rather than stacked units.

The architecture incorporates elements found in the new and proposed construction downtown as well as those found in the traditional, established neighborhoods that surround the project. Even though similar floor plans of the Atherton Place project are being used, the project architect has made a number of changes to the exterior of the project to give it a different appearance. The proposed project, will not have partly depressed garage levels, as is the case with Atherton Place. All buildings will be three stories as they appear from both exterior public streets and inward private streets. The Atherton Place project is constructed with a stucco exterior. The Grand Place project is basically sided **with** wood shingles and simulated horizontal wood siding. The project is designed to have the units incorporate some elements found in traditional "Craftsman" design. The project design features include window trim, simulated horizontal wood siding and wood shingle siding, and raised front entry porches with railings and planters and trellises. In addition, the units are articulated and incorporate some pop-out sections and heavy post and beam features to enhance their appearance. Roofing material on the raised-pitched roofs is to be composition shingle. Staff has incorporated a condition of approval requiring that the architect provide vertical wood trim on some of the end elevations to break up the large expansive **fields** of wood shingles. Overall, the buildings are attractive and will have a quality appearance. The fronts and backs of **the** buildings are well articulated and incorporate a number of design features that help in achieving a pleasing building elevation.

The applicant proposes that the buildings be painted a Khaki color at the base (horizontal siding) of all structures and that one of two stain colors be used on the upper wood shingle siding. Staff has recommended that at least one additional base color be used to break up the monotony of all 30 buildings having the same appearance. With several base colors and with two shingle stain colors and use of different fabric awning colors (one color scheme [burgundy, spruce, yellow/buttercup and navy] per building), there should be a number of differences between the buildings. All buildings will have a Slate-Blend color on the asphalt composition roofs. Furthermore, white wood trim is proposed on all buildings as well as a deep red metal trim color.

#### Usable Open Space:

The City's open space requirement in the Downtown area is 100 square feet per dwelling unit, or 16,100 square feet for this project with 30 square feet per dwelling unit (total 4,830 square feet) being reserved for required group open space. The project exceeds this amount and provides a generous group open space area. This requirement is met by approximately 11,790

square feet of group open space and 8,886 square feet of private usable open space for a total of approximately 20,676 square feet. The group open space area includes an 800-square-foot project meeting lounge and separate spa room. The group space area is composed of several large green areas to be developed with a tot lot and community plaza. The lounge and spa rooms overlook the plaza area and would utilize the same design and materials as used on the residential buildings. Private open space areas are provided by raised entry decks (Unit-types A, B and C), and rear decks on the second floor of Unit-type B. All the raised decks are 60 square feet in area except for the rear B unit decks, which are 86 square feet in size. The B unit, like some of the A units, will have ground patio yards on grade with access through the garage,

Staff **finds** that the project layout works well Within the parameters of the irregularly shaped site and that the type of unit will be compatible with other residences in the area, but results in only sparse landscaping along the private streets within the project. While the applicant has chosen a housing type that would be more easily sold, a greater density could be achieved with a condominium project or other housing format. The proposed townhouse project is very tight on the site and the lack of tree planting along the interior streets reflect the crowding of the site plan. This fact was pointed out to the applicant at the beginning stage of development review. The applicant has been unwilling to reduce the number of units to provide more area for these plantings since they believe that they have complied with the required amount of open space for the project. The tightness of the plan is most easily seen around the street courts surround Buildings XXVI and XXXI. The centers of these street courts contain four C-type units each. The area between the units and the street will be only 5' – 2" which will be too narrow for planting of anything but small shrubbery. This situation is also found on other east to west directional streets. A possible solution may be to reduce the **number** of dwelling units in the central portion of the project. The issue is balancing the City's goal of higher densities near BART against maximizing landscape opportunities.

### Vesting Tentative Map

A **25-foot-wide** private street constructed to public street standards will serve the project, which provides for two travel lanes with no on-street parking. Decorative paving will be required at both the Grand Street and Sutro Street project entrances and at specified locations within the subdivision.

There are water, sewer, and storm drain mains within Grand Street and Sutro Street of adequate capacity to serve the project. Each unit **will** have individual water meters, and a separate meter will be **installed** for common landscape areas.

### Circulation

Upon recordation of the final map, the subdivision will create the necessary easements for street and utility improvements located outside the subdivision boundaries and **onsite** easements such as the one needed for the proposed emergency vehicle access. The developer must obtain

the land from the Union Pacific Railroad and any necessary easements and encroachment permits needed to install the subdivision improvements.

The City's sanitary sewer collection system currently does not have the capacity to serve the proposed development; without upgrading the existing system, the sanitary sewer discharge from the proposed development would adversely impact the City's sanitary sewer system. To provide for adequate capacity, the developer shall **upsized** and modify portions of the sewer mains in Meek Avenue, Filbert Street, C Street and Burbank Avenue to accommodate the additional flow.

The off-site sanitary sewer improvements have been designed by the City of Hayward in a project titled "Meek Avenue Sanitary Sewer Line Replacement Project", Project No. 613-7507, Drawing File No. E-1552. The obligations of the developer and the City related to the project are specified in an Agreement titled "Agreement Between the City of Hayward and DeNova Homes, Inc., for Construction of Sanitary Sewer Improvements". The City shall design the proposed improvements, and pay up to 40% of the construction cost, while the developer will pay the remaining 60% of the construction cost, and all of the construction inspection and testing. A draft copy of said Agreement, dated April 4, 2000, is on file in the City Clerk's office. The owner shall execute the agreement prior to the approval of the final map and the improvements shall be installed and accepted prior to the issuance of a certificate of occupancy for any of the dwelling units within the development.

Prior to the approval of the **final** map the City shall vacate the portion of Sutro Street that lies within the subdivision boundary (375 **± feet**). The sanitary sewer and water mains within the vacated portion of Sutro **Street** shall be removed.

### Schools

The Hayward Unified School District reports that the proposed project of 161 units would, according to their new student generation factor, generate a total of 55 new students. The analysis indicates that 31 students would be in the K-6 grades, 13 students in the 7 and 8 grades and 11 students in grades 9 through 12. Schools in the attendance area are Burbank Elementary, **Winton** Middle and Hayward High School. The School District states that Burbank School is currently a significantly impacted school. There are currently 20 permanent and 16 portable classrooms on an undersized site. The District is in the process of adding 6 additional portables in the summer of 2000 to handle recent growth, class size reduction, and recent and future new developments. The development of this project will require an additional 1 to 2 classrooms be added to the site.

The developer will be required to pay the statutory per square foot school tax at the time of construction of the new units. As of April 28, 2000, this fee was increased from

With the passage of Proposition **1A** on November 3, 1998, local governments are prohibited from denying projects based on the adequacy of school facilities and from seeking funds to

mitigate impacts in excess of \$2.03 per square foot for residential construction. While current law allows the district to only charge the statutory fee, the District has had several discussions and meeting with the developer. Discussions have centered on the possibilities of the developer doing some site improvements at Burbank, School as a way of fulfilling its obligation to the District. At this time, no final commitment has been reached in these discussions.

## **VARIANCES AND WAIVER**

The following variances are requested by the applicant:

- a. To allow one townhouse in Building VIII to within 11' - 6" and seven townhomes in Building XII to within 13' - 2" of the rear property line where a 15-foot rear yard setback is required.**

Staff Comments - The reduction of the rear yard setback for Buildings VIII and XII and the reduction of the side yard setback for Building III are considered minor by staff and is requested by the applicant, in part, to improve the project and provide area for the planting of street trees along Street C. Building XII is opposite the group open space area and a slight reduction of the required rear yard provides for increased landscaping opposite the open space area in front of the units. The **13-foot-wide** yards behind these units face a 10-foot-wide side yard on the abutting property.

The other variance request for a rear yard setback reduction is for a single unit in VIII to provide a minimum 5-foot setback between the structure and the proposed private street. In this case, a Type-B unit is involved where it meets a radius on the private street. This unit-type is used at the ends of some of the buildings to soften the edge of the structure at the corners within the development. Because landscaping is important along the interior of the project, staff believes that the minor encroachment into the rear is justified because of the irregular lot configuration and since the abutting property is not impacted where the abutting building (rear of building) on the adjoining lot exceeds 27 feet.

- b. To allow the garage width of one of two parking spaces in the townhouse model types A and B to be 10' - 4" wide and one of two parking stall widths within the garage of the D Model type to be 10 feet wide where a width of 11 feet is required.**

Staff Comments - While staff finds the wider parking garage space to be desirable for vehicle entry, similar requests for narrower garages were approved for the Atherton Place townhomes and the Legacy Partners' Pinnacle City Centre project. The applicant is seeking parity for what has recently been approved and found acceptable for projects that were placed in the downtown area and near the BART station. On the other hand, no variances were requested for the City Walk project by the Olson Company. Staff does not believe this to be impacting since it only represents the condition of one of the two parking spaces in each of the units and does not affect the car door swing location.



- c. **To allow a waiver for one townhouse in Building XVI to be within approximately 3' – 6" of the side property line where a 10-foot setback is required and one townhouse in Building III to within 6' – 6" of a side property line where a 10-foot setback is required.**

Staff Comments – The request for this waiver for Building is only necessary if the applicant is unable to purchase the adjacent property from the railroad. The applicant indicates that they are waiting for the railroad to respond to their purchase agreement for the property. The Zoning Ordinance indicates that the minimum side yard setback within the CC-C Subdistrict is 10 feet unless waived by the approval body. If title to the property is passed on to the applicant, then no waiver is needed and the two additional townhomes, as depicted on the site plan, can be constructed. A condition of approval covers the condition of this property acquisition and the retention of the two units as depicted on the site plan. Staff finds this request very minor since the area between the property line and the railroad tracks is vacant and cannot be developed. Noise from the railroad and BART tracks impact the site, and this condition is being mitigated with the placement of a sound wall and glazing to provide sound attenuation for the units within the building and their required open space. The other waiver is for a single B-type unit in Building III that has a side yard setback of 6' – 6" where 10 feet is required. As explained above for a variance for the same type of unit within the rear yard setback, the encroachment is considered minor when the abutting structure on the adjoining property has a side yard setback of only some 3 feet.

The purpose of variance provisions is to authorize in specific cases departure from the terms of the Ordinance if not contrary to the public interest where owing to special conditions, literal enforcement would result in unnecessary hardship. The Zoning Ordinance states that the approving authority may approve or conditionally approve an application when all of the following findings are made:

- a. There are special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints.
- b. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classification.
- c. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.

Staff believes that the required findings can be made and has attached these for the Commission's consideration.

## **GENERAL POLICIES PLAN**

The property is shown on the General Policies Plan map as being within the Commercial:

Downtown – City Center Area with designations of High Density Residential and Retail-Office Commercial. The zoning on the property allows for the proposed development subject to approval of a use permit for first floor residential uses within the CC-C Subdistrict. One of the policies stated is that the special character of areas within the downtown will be fostered in order to create a coherent land use pattern. A strategy listed to accomplish this is to encourage both commercial and residential development in the area surrounding the BART station. Another policy stated is mixed-use, restoration, and residential projects as well as commercial projects, **will** be encouraged in the downtown area. A supporting strategy is to encourage moderate and upper income residential development to increase market support for business and to extend the hours of downtown activity. Because the property has limited visibility and access to the major streets in the area, staff does not believe that this particular site lends itself well for commercial development or a mixed-use project. Another strategy to support pedestrian amenities in the downtown is to encourage pedestrian circulation with pedestrian ways that connect principal destinations such as BART.

The General Policies Plan states that “greater intensity of development is desirable in the **BART** area to better utilize BART and available land as well as to create another identifiable focus for the downtown.” Generally, continuous street frontages and more than one story of development support a pedestrian-oriented, “downtown” character. New housing in and around the downtown is desirable to support retail uses and cultural activities and to maintain a lively downtown evenings and weekends.

The Growth Management Element adopted by Council on July 13, 1993 and amendments added on January 9, 1996 indicates that a policy for downtown is to implement the Downtown Design Plan and the Core Area Specific Plan with emphasis on making the downtown a focal point for the City and an area suited to pedestrian use, including more features like fountains, benches, etc.

The boundary of the Redevelopment Agency was expanded to include the property and other lands to west in November 1998.

### DOWNTOWN DESIGN PLAN

The property is at the edge of the Downtown Core. The Downtown Design Plan presents the City’s development policies for downtown Hayward. Multi-family residential is included as a permitted use in the CC-C and CC-R Subdistricts. The purpose of the Downtown Hayward Design Plan is to create a densely developed, mixed use, pedestrian oriented downtown neighborhood. In the plan, new housing units are to be clustered around an easily accessible transit hub for BART and buses. The Core Area Plan outlines the density, setbacks and design features of the various blocks in the downtown. The project site is designated for housing with a density allowance up to 50 units per acre. The plan requires that the primary entries to the units be from the public street or from a private street, which is developed like a public street.

Another required element of the plan is the provision of an 8-foot setback (landscape) area to provide for privacy. The setback is between the front property line and the primary building wall. Within this setback area, features such as stairs, stoops, porches, bay windows and

trellises are required, The purpose is to provide interest and animation along the street. The applicant has designed the project with this design element and therefore, complies with the Downtown Design Plan

## ENVIRONMENTAL REVIEW

A traffic analysis for the project was prepared by Parsons Transportation Group, Inc., dated November 3, 1999. The results of the study show that all six of the study intersections would continue to operate at LOS C or better under both Existing + Project and under Existing + Project + Approved/Planned Project Conditions during the AM and PM peak-hour. Furthermore, signal warrant analysis illustrate that the two unsignalized intersections (Sutro Street and Dean Street, Grand Street and Dean Street) do not meet the Caltrans' peak hour signal warrant requirement criteria. Therefore, the proposed townhouse project has no **significant** impact on the existing roadway network (see attached Traffic Study, Table 7 [Existing + Project+ Approval/Planned Project Developments Levels of Service], page 25) for collected numbers of the intersection studies.

The property consists of six parcels located at the end of Sutro Street that were developed with residential, commercial and light industrial businesses since the 1950s. The businesses that were located on the property included a heating and air conditioning business, a manufacturer of vacuum equipment, an auto detail shop, a printing company and a manufacturer of industrial size batteries. Both a Phase I Environmental Site Assessment and Phase II Subsurface Investigation was performed for the property by All Environmental, Inc. While several possible environmental concerns were noted, further collection and analysis of soil samples from the property revealed that either no indication of any subsurface impacts were detected or that the level of contamination was well below accepted action levels. Other detected levels of contamination were below preliminary remediation goals for these contaminants and is considered minor. Based on the results of this investigation, the environmental consultant recommends that no further investigation of the issues of the two reports be done.

Nevertheless, staff has contacted the State office of the Department of Toxic Substance Control (DTSC). Based on the information that this State office has at present, there is insufficient information to make any conclusions as to whether the site has significant contamination or whether the site poses a significant health threat to future residences. The contact person within DTSC states that their office is waiting for a return call from the developer's consultant to discuss the rationale for the sampling done to date. There is a strong likelihood that additional samples will be required. The conditions of approval require that prior to issuance of any grading or building permit, that this matter be resolved to the satisfaction of the State and the City of Hayward Hazardous Materials Office. Furthermore, A qualified professional is being required to be on site during the demolition, grading and construction phases to determine if any additional contamination is present. If additional contamination is discovered during the demolition, grading or construction phases, work must then cease and the Fire Department Hazardous Materials Office must be contacted immediately. Work cannot begin until clearance is received.

A Mitigated Negative Declaration was prepared and distributed for a period of twenty days beginning June 9, 2000, in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. A notice of its availability for review was sent to all property owners and occupants within 300 feet of the perimeter of the property, to other interested parties and was published in the Daily Review. The environmental review concluded that the project would not have a significant effect on the environment as long as specified mitigation measures are incorporated in the project.

### **PUBLIC NOTICE**

On June 9, 2000, a notice was mailed to property owners and tenants within 300 feet of the project boundaries, to former members of ***the Burbank Neighborhood Task*** Force and all other interested parties advising them that the City had received a development application for the site.

On June 9, 2000, a public hearing notice was published in the “Daily Review” and mailed to surrounding property owners/residents and task force members.

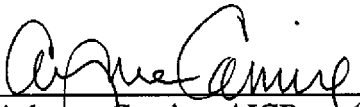
### **CONCLUSION**

Staff **finds** the proposed development of townhomes on this site to be attractive and well designed. The project complies and exceeds the City requirements for parking and usable open space. The design of the project also follows the Downtown Design Plan and the General Policies Plan. The development will complement and tie in well with the recent construction of Pinnacle City Centre project on the north side of D Street. Staff believes that the requested variances are minor in nature

Prepared by:



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Associate Planner

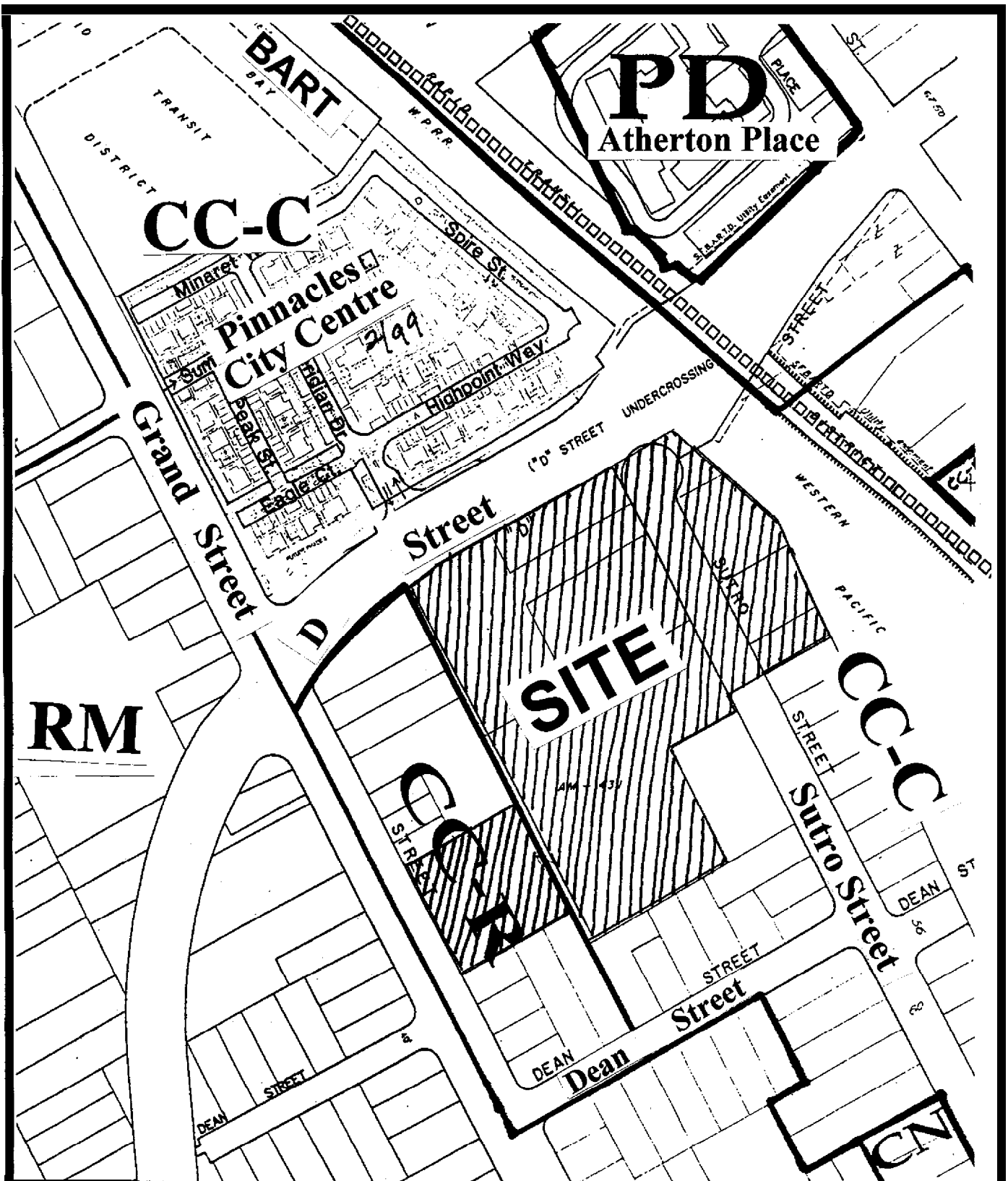
Recommended by :



Dyana Anderly, AICP  
Planning Manager

Attachments:

- A - Area Map
- B - Vesting Tentative Tract Map 7191 Findings for Approval
- C - SPR, UP & Variance Application 99-130-16 Findings For Approval
- D - Vesting Tentative Tract Map 7191 Conditions of Approval
- E - SPR, UP & Variance Application 99-130-X Conditions of Approval
- F - Initial Study, Revised Mitigated Negative Declaration, Mitigation Monitoring Program
- G - Traffic Analysis, prepared by Parsons Transportation Group, Inc., dated November 3, 1999
- H - Acoustical Report, prepared by Wilson, Ihrig & Associates, Inc., dated December 1, 1999, with Addendum, dated March 6, 2000 and 2<sup>nd</sup> Addendum, dated May 26, 2000
- I - Vacation Map of Sutro Street  
Vesting Tentative Tract Map  
Project Plans



**AREA/ZONING MAP .**  
**Use Permit/Site Plan Review/Variance 99-130-16**  
**DeNova Homes, Inc. (Applicant)**  
 Grand, D & Sutro Streets

ATTACHMENT A

**FINDINGS FOR APPROVAL  
TENTATIVE TRACT MAP 7191**

Grand Street and Sutro Street

- A. That approval of Tentative Tract Map 7191, as conditioned, will have no significant impact on the environment, cumulative or otherwise. The project reflects the City's independent judgement, and that a Negative Declaration was prepared for the project in conformance with the provisions of CEQA;
- B. The tentative tract map and the proposed site plan substantially conform to the State Subdivision Map Act, the City's Subdivision Regulations, and the General Policies Plan.
- C. The site is physically suitable for the proposed type of development.
- D. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- E. The design of the subdivision and the proposed improvements will not cause serious health problems.
- F. The design of the subdivision and the proposed improvements are in conformance with the conditions of approval and will not conflict with easements for access through, or use of, property within the subdivision.
- G. Existing and proposed streets and utilities are adequate to serve the project.
- H. None of the findings set forth in Section 64474 of the Subdivision Map Act have been made, and the approval of the tentative tract map is granted subject to the recommended conditions of approval.

## FINDINGS FOR APPROVAL

### Use Permit, Site Plan Review & Variance 99-130-16

Request to construct 161 multi-family dwelling units within 30 three-story buildings on 6.7 acres.

The property is located on the east side of Grand Street, approximately 295 feet south of D Street; with additional frontage (approximately 485 feet/no vehicular access) on the south side of D Street west of the railroad grade separation; and with approximately 30 feet of frontage along the west side of Sutro Street at its proposed terminus after vacation of the north end of the street.

#### Use Permit

- A. The approval of Use Permit Application No. 99-130-16, as conditioned, will have no significant impact on the environment, cumulative or otherwise, the project reflects the City's independent judgement, and that a Negative Declaration was prepared for the project in conformance with the provisions of CEQA. Mitigation measures are included which provide for sound attenuation for the private open space along the frontage streets and the railroad and **BART/railroad** tracks;
- B. The proposed housing development is desirable for the public convenience or welfare in that it provides ownership housing close to the downtown core and the BART station where public transportation is available;
- C. The proposed housing development will not impair the character and integrity of the zoning district and surrounding area **since** the applicant proposes ownership housing with a project design that reflects an architectural style that blends in well with surrounding residences and elements that are typical to both older or newer housing units in the area;
- D. The proposed residential project will not be detrimental to the public health, safety, or general welfare in that the **layout** of the units are done with ample setback to provide light and air to all dwellings and that the arrangement provides for pedestrian and **vehicular** access to each unit from the proposed private street; and
- E. The proposed use is in harmony with applicable City policies and the intent and purposes of the zoning district involved which encourages residential or commercial development in the area surrounding the BART station and that new moderate and upper income residential development in and around the downtown is desirable to support retail uses and cultural activities and to maintain a lively downtown evenings and weekends.



### Site Plan Review

- F. The development of the site with 161 residential units is compatible with on-site and surrounding structures and uses in that the buildings are arranged with light and air between them and that each unit functions to provide ample ingress and egress and access to the garages and other parking areas and that the development is designed to be an attractive addition to the City;
- G. The housing project has been designed to take into consideration the physical and environmental constraints of the property by **placement** of the units to oriented to the street frontages and along the railroad tracks and to provide good pedestrian and vehicular circulation through the property;
- H. The housing project complies with the intent of City development policies and regulations in that the project meets minimum standards for open space, parking, density, building setbacks, etc. except where variances have been requested; and
- I. The housing project will be operated in a manner determined to be acceptable and compatible with surrounding development in that each unit **will** have required covered parking as well as visitor spaces and that the street design provides for emergency response, garbage service, and mail delivery.

### Variances

**To allow one townhouse in Building VIII to within 11' - 6" of the rear property line where a 15-foot rear yard setback is required.**

- J. There are special circumstances applicable to the property in that the site is large and very irregular in shape with several street frontages and that provision of an internal private street system to serve the row houses requires some flexibility in the layout and that the reduction in setback should be considered minor since it is only for 1 of the 161 units.
- K. Strict application of the Zoning Ordinance **deprives** such property of privileges enjoyed by other property **in the** vicinity under the same zoning classifications in that the separation of the proposed building and the existing single family residence on the adjacent property is 40 feet. This is the same separation development standard required in residential zoning; and
- L. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is situated in that neighboring properties have 40 feet or less between adjacent residential buildings.

**Seven townhouse in Building XII to within 13' – 2" of the rear property line where a 15-foot rear yard setback is required.**

- M. There are special circumstances applicable to the property in that the site is large and very irregular in shape with several street frontages and that provision of an internal private street system to serve the row houses requires some flexibility in the layout and that the reduction in setback should be considered minor since it is only for 7 of the 161 units.
- N. Strict application of the Zoning Ordinance deprives such property of privileges enjoyed by other property in the vicinity under the same zoning classifications in that there is a 24-foot separation between the rear of the proposed building and the existing single family residence. The required side yard set back for the single family residence is 5 feet. However, this property has an 11-foot side yard set back allowing ample distance between structures;
- O. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classification in which the property is situated in that neighboring properties have side yard set backs of less than 10 feet.

**To allow the garage width of one of two parking spaces in the townhouse model types A and B to be 10' – 4" wide and one of two parking stall widths within the garage of the D Model type to be 10 feet wide where a width of 11 feet is required.**

- P. There are special circumstances applicable to the property in that the site is large and very irregular in shape with several street frontages and that provision of an internal private street system to serve the row houses requires some flexibility in the layout and that the reduction in setback should be considered minor since it is only for 10 of the 161 units,
- Q. There are special circumstances applicable to the property in that the project is on the edge of the downtown core and the project is designed as ownership housing where the City has granted other like projects such as Atherton Place and Pinnacle City Centre to have a garage width less than the required 11 feet and that the proposed variance is very minor in that the departure is for only one of the two spaces within the garage and it does not affect the entry into the vehicle;
- R. Strict application of the Zoning Ordinance and Off-Street Parking Regulations would deprive the applicant of the property the same privileges enjoyed by other property in the vicinity under the same zoning classification since variances for the width of garages were approved for other downtown housing projects; and
- S. The variance does not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning classifications in which the property is situated since other variances for the width of garages were approved for other downtown housing projects.

**CONDITIONS OF APPROVAL  
TENTATIVE TRACT MAP 7191  
Grand Street and Sutro Street**

Unless otherwise stated, all necessary easements shall be dedicated, and all improvements shall be designed and installed at no cost to the City of Hayward.

All improvements shall be designed and constructed in accordance with the City of Hayward Municipal Code – Chapter 10, Article 3, and Standard Specifications and Details – unless otherwise indicated hereinafter.

The applicant/developer's engineer shall perform all design work unless otherwise indicated.

**PRIOR TO THE RECORDATION OF THE FINAL MAP**

**IMPROVEMENTS**

Improvement plans shall be submitted to the City Engineer for review and approval. Subject plans shall, in addition to the standard improvements, incorporate the following special design requirements:

**STREETS**

**Interior Private Streets**

1. The private street shall have a 25-foot-wide right-of-way with a 24-foot-wide curb to curb width allowing for two **12-foot-wide** travel lanes. Sidewalks shall be installed in locations approved by the City Engineer and the Planning Director. A minimum vertical clearance of 13 feet-6 inches shall be maintained to provide adequate **clearance** for emergency vehicles.
2. All interior sidewalks shall be a minimum of four-feet-wide and shall be designed to City of Hayward Standard Detail SD-108.
3. The private streets shall be designed to drain towards a valley gutter located in the center of the street. The valley gutter design and street cross-section shall be approved by the City Engineer.
4. The private street curb returns shall have a minimum face-of-curb radius of 20 feet and shall include handicap ramps when adjacent to sidewalks. The street and handicap ramp designs shall be approved by the City Engineer.

5. The curb returns, at the Grand Street entrance, shall have a face of curb radii of 30-foot radii.
6. The subdivision circulation shall be designed to adequately accommodate emergency vehicle access.
7. No parking shall be allowed within the private street right-of-way.
8. Decorative pavement e.g. interlocking pavers or stamp colored concrete, or bands of decorative paving, etc. shall be installed at the entrance and various locations within the subdivision, as shown on the vesting tentative map. The Director of Community and Economic Development/Planning Director shall approve the material, color and design and the City Engineer shall approve the street section for the decorative paving.
9. The onsite streetlights and pedestrian lighting shall have a decorative design approved by the Director of Community and Economic Development/Planning Director and the City Engineer,
10. Upon any necessary repairs to the facilities under the on-site decorative paved areas, the City shall not be responsible for the replacement cost of the decorative paving. The replacement cost shall be borne by the homeowners association established to maintain the common areas within the subdivision boundary.
11. Abandoned driveways along Grand and Sutro Streets shall be removed and replaced with standard sidewalk, curb and gutter that meet City Standard Designs.

## **Public Streets**

### **D Street**

12. The curb, gutter and sidewalk along the D Street frontage shall be repaired or replaced as required, The location and limits of these repairs shall be determined by the City Engineer.

### **Grand Street and Sutro Street**

13. The portion of Sutro Street that lies within the subdivision boundaries, 375 ± feet, shall be vacated prior to the recordation of the final map.
14. Curb, gutter, sidewalk and tie-in paving, to match existing, shall be installed across the Grand Street and Sutro Street frontages, The limits of the improvements shall be determined by the City Engineer.
15. A “No Outlet” sign shall be placed at the entrance of Sutro Street from Dean Street. The location of the sign shall be determined by the Transportation/Development Manager.

16. Any unused driveways along the Grand Street right of way shall be removed and replaced with curb, gutter and sidewalk to match existing conditions.

### **Storm Drainage**

17. The subdivision storm drain system shall be a private system owned **and** maintained by the homeowners association.
18. The Hydrology and Hydraulics Criteria Summary, Alameda County Flood Control and Water Conservation District, latest edition shall be used to determine storm drainage runoff.
19. Prior to commencement of any clearing and grading or excavation resulting in a land disturbance of five acres or more, the developer shall submit evidence to the City that a notice of Intent (**NOI**) has been submitted to the State Regional Water Quality Control Board.
20. The project plans shall include storm water pollution prevention and control measures for the operation and maintenance of the project during and after construction for review and approval of the City Engineer. The project plan shall identify Best Management Practices (**BMPs**) appropriate to the uses conducted **onsite** to effectively prevent the entry of pollutants into storm water runoff.
21. The project plan measures shall also include erosion control measures to prevent soil, dirt, debris and contaminated materials **from** entering the storm drain system, in accordance with the regulations outlined in the **ABAG** Erosion and Sediment Control Handbook.
22. The applicant/developer is responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction **BMPs** will result in the issuance of correction notices, citations or a project stop order.
23. The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all areas tributary to the project area. The developer is required to mitigate augmented runoffs with off-site and/or on-site improvements.
24. All storm drain inlets must be labeled “No Dumping - Drains to Bay” using City approved methods.

### **Sanitary Sewer System**

25. **Sanitary** sewer service is available in Grand Street, however there is not enough downstream capacity to adequately serve this development. The developer shall enter into an agreement to upgrade portions of the sewer mains in Meek Avenue, Filbert Street, C Street and Burbank

Avenue to carry the sewer discharge from the development. The City has prepared the construction drawings for the proposed upgrades. These sanitary sewer upgrades shall be **completed** with the improvements associated with the subdivision's first phase of construction.

26. The City's sanitary sewer system currently does not have the capacity to serve the proposed development, therefore without a mitigation, the sanitary sewer discharge from the proposed development would adversely impact the City's sanitary sewer system. As a mitigation measure, the developer shall modify portions of the sewer mains in Meek Avenue, Filbert Street, C Street and Burbank Avenue to accommodate the additional flow.

Said improvements have been designed by the City of Hayward in a project titled "Meek Avenue Sanitary Sewer Line Replacement Project", Project No. 613-7507, Drawing File No. E-1552. The obligations of the developer and the City are specified in an Agreement titled "Agreement Between the City of Hayward and DeNova Homes, Inc., for Construction of Sanitary Sewer Improvements". The City shall design the Project, and pay up to 40 % of the construction cost, while the developer will pay the remaining 60% of the construction cost, and all of the construction inspection and testing.

27. The sanitary sewer system shall be publicly owned and maintained and designed in accordance with the City of Hayward standard details.
28. **Onsite** sanitary sewer mains shall be located 6 feet from the face of curb on the opposite side of the street from the water main.
29. Each unit shall have a separate sanitary sewer lateral.
30. The sanitary sewer main located in the vacated portion of Sutro Street shall be removed.

### **Water System**

31. Water service is available subject to standard conditions and fees in effect at the time of application.
32. The existing water main within Sutro Street, that is located within the subdivision's boundaries, shall be removed at the developer's expense.
33. The proposed water supply system shall be public, designed in accordance with the City of Hayward standard details and shall be looped to D Street, Sutro Street and Grand Street.
34. **Onsite** water mains shall be located 5 feet from the face of curb on the opposite side of the street from the sewer main.
35. Water services shall be located 6 feet from sanitary sewer laterals.

36. Each unit shall be individually metered. The developer shall install individual radio read water meters.
37. A final statement of water main extension cost shall be submitted to the City of Hayward Utilities Division prior to application for metered water service.
38. The water main located in the vacated portion of Sutro Street shall be removed.

### **Fire Protection**

39. All buildings shall be provided with an NFPA 13-fire sprinkler system. Individual control valves shall be installed at each floor so as to isolate the fire sprinkler system. If the units are to be individually owned townhouses, then this office will allow the installation of NFPA13-D (Domestic) fire sprinkler systems with individual meters with 2-hour separations. This needs to be discussed with the fire department. Attic and garage fire sprinklers will be required regardless.
40. Prior to construction a Phase I Environmental Assessment shall be performed on the site and the results submitted to the Fire Department Hazardous Materials Division.
41. Obtain an ***Environmental and Health Based Clearance*** from the State Department of Toxic Substance Control.
42. The developer shall provide an on-site qualified specialist to monitor for additional contamination. The qualified specialist shall -be approved by the Hazardous Materials Office. If additional contamination is found during the demolition, grading or construction phases of the project, cease work and contact the Fire Department, Hazardous Materials Office.
43. Fire hydrants shall be installed approximately every 300 feet. The fire hydrants shall be a double-steamer type capable of flowing 2250 gallons per minute at 20 pounds per square inch for a two-hour duration (with allowance granted 50% for fire sprinklers). Blue reflective markers shall be installed on the street paving to indicate the location of the fire hydrants. The hydrant design shall be approved by the Fire Marshall.
44. All curbs fronting travel ways where parking is not located, shall be painted red, signed for "No Parking", and signed to allow towing of illegally parked vehicles to ensure adequate fire truck access.
45. A Class I Standpipe System shall be installed for each building. The standpipe system may be combined with the fire sprinkler system. Fire hose outlets shall be provided at each stairwell landing (interior and exterior), if warranted.
46. Fire service to the City main, single and/or multiple shall be approved by the Fire Department. Fire Department connections (FDC's) and post indicator valves (PIV's) shall be installed at each main connection and meet City standard details for installation and

approved by the Hayward Fire Department. All buildings shall have individual **FDC's** and **PIV's** installed in an acceptable location approved by the Hayward Fire Department.

47. All control valves, and post indicator valves shall be locked in the open position and monitored.
48. All buildings shall be central station monitored and supervised for fire sprinkler waterflow.
49. All buildings shall have both manual and automatic fire alarm systems installed. The fire alarm system shall be a supervised system and present a local alarm capable of being heard throughout the building.
50. Exterior strobe lights shall be installed on each building and tied into the monitoring of the fire alarm system.
51. Single station smoke detectors shall be installed in each dwelling unit. Installation of the single station detectors shall meet the State of California Building Code and shall be hard wired electrically with battery back up. Single station smoke detectors need not be tied into the fire alarm system.
52. Fire alarm annunciators shall be provided at the Grand Street and Sutro Street entrances.
53. A fire alarm control panel shall be provided at each building or tied into a centrally located building to be approved by the Hayward Fire Department.
54. Fire extinguishers shall be provided for all buildings. Minimum size and type shall be 2A: 10BC and shall be placed on each floor at every 75' of travel.

#### Utilities

55. All service to dwellings shall be an "underground service" designed and installed in accordance with the Pacific Gas and Electric Company, Pacific Bell Company and TCI Company regulations, including transformers.
56. All utilities, including water mains, located underneath decorative paving or "turf block" shall be encased in steel sleeves.
57. All surface-mounted hardware (fire hydrants, electroliers, etc.) along the proposed streets shall be located outside of the sidewalk within the 6-foot-wide Public Utility Easement in accordance with the requirements of the City Engineer or, where applicable, the Hayward Fire Chief.
58. All utilities shall be designed in accordance with the requirements of the City of Hayward and applicable public agency standards.



### **Landscaping and Irrigation**

59. All common area landscaping, irrigation and site amenities shall be installed prior to occupancy of 60% of the dwelling units.
60. Prior to the sale of any individual unit, or prior to the acceptance of tract improvements, whichever first occurs, a homeowners' association shall be created to maintain the common area landscaping, open space amenities and landscaping in the park strips along the streets in front of the project. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses. A reserve fund shall be maintained to cover the costs of replacement and repair.

### **Walls, Fences, Trellises and Entry Features**

61. Walls and fences shall be designed with decorative features, which may include a molded cap, pilasters and finials.
62. All proposed retaining walls shall be constructed with decorative reinforced concrete.
63. Masonry walls, solid building walls, trash enclosures, and /or fences facing a street or driveway shall be buffered with continuous shrubs or vines.

### **Dedications, Easements and Encroachment Permits**

64. The final map shall reflect:
  - a. Dedication of a utility easements (PUE) abutting the internal private streets. The location and width of these easements shall be determined by the City Engineer.
  - b. All easements needed to accommodate the public portions of the sanitary sewer and water systems that are outside of the private street areas. The easements shall be a minimum of 12 feet wide.
  - c. Dedication of the subdivisions interior private street system shall be offered to the City.
65. Prior to the approval of the final map, all documents that need to be recorded with the final map, shall be approved by the City Engineer and any unpaid invoices or other outstanding charges accrued to the City for the processing of the subdivision application shall be paid.
66. Prior to the approval of the final map, the owner shall execute an agreement with the City that is in substantial conformance with a draft copy, dated April 4, 2000, on file in the City Clerks Office. The agreement will require the installation of certain off-site sanitary sewer

improvements included in the City sanitary sewer project titled “Meek Avenue Sanitary Sewer Line Replacement Project”, Project No. 613-7507, Drawing File No. E-1552. Obligations of the owner and the City are specified in. an Agreement titled “Agreement Between the City of Hayward and DeNova Homes, Inc., for Construction of Sanitary Sewer Improvements”.

67. Prior to the approval of the final map a lot line adjustment shall be approved and the effects of that map recorded that adjust the property line at the northeast corner of the site as shown on the tentative map. If the developer is unable to obtain the property from the Union Pacific Railroad, units 51 and 52 as identified on the tentative map shall be removed from the subdivision. This will reduce the number of units in this subdivision to 159.
68. Prior to the approval of the final map the City shall vacate the portion of **Sutro** Street that lies within the subdivision boundary (375 ± feet),

### **Conditions, Covenants, and Restrictions**

69. Prior to the sale of any individual unit, or prior to the acceptance of site improvements, whichever first occurs, a homeowners’ association shall be created to maintain the common area landscaping and open space amenities.
70. Prior to the sale of any individual unit, or prior to the acceptance of site improvements, the applicant/developer shall establish a homeowners’ association, and prepare project CC&R’s for the development which shall be reviewed and approved by the Director of Community and Economic Development/Planning Director and include the following conditions:
  - a. Each owner shall automatically become a member of the association and shall be subject to a proportionate share of maintenance expenses.
  - b. The homeowners association shall be responsible for maintaining the interior private streets, which includes decorative paving and the street lighting fixtures. If utility repair underneath the decorative pavement becomes necessary, the homeowners association will be responsible for replacing the decorative paving.
  - c. A reserve fund shall be maintained to cover the costs of replacement and repair.
  - d. The association shall be managed and maintained by a professional property management company.
  - e. Provisions for towing unauthorized vehicles from the site
  - f. A requirement that a Homeowners’ Association Architectural Review Committee be established to review and approve all exterior improvements; including fences, walls or changes to individual homes to ensure consistency with the CC&Rs.

- g. The site shall be maintained in good repair, and **free** of debris at all times.
- h. A requirement that the building exteriors and walls shall be maintain& free of graffiti. The owner's 'representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City's community Preservation Officer.
- i. The homeowners' association shall maintain the irrigation system and maintain the landscaping in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% **dieback**) shall be replaced within 10 days.
- j. Landscaping and irrigation shall be maintained in all common areas or the City shall have the right to enter upon the property to maintain the exterior portions of the common area at the expense of the homeowners association per Section 10-3.385 of the Subdivision Ordinance.
- k. All trees shall be preserved in accordance with the Tree Preservation Ordinance; a tree removal permit is required prior to the removal of any tree.
- l. Trees shall not be severely pruned, topped, or pollarded and any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the Landscape Architect, within the timeframe established by **the** City and pursuant to the Municipal code.
- m. Each resident shall participate in the City's recycling program.

### **Subdivision Agreement**

- 71. Execute a subdivision agreement and post bonds with the City that shall secure the construction of the public improvements per Section 10-3.332, Security for Installation of Improvements, of the Municipal Code. Insurance shall be provided per the terms of the subdivision agreement.

### **PRIOR TO CONSTRUCTION WITH COMBUSTIBLE MATERIALS**

- 72. Required water system improvements shall be completed and operational prior to the start of combustible construction.

73. A minimum 24-foot-wide all-weather access road, engineered for 50,000 pound gross vehicle weight, shall be maintained for emergency vehicle access and fire hydrants shall be installed and operational prior to the start of combustible construction and storage of combustible materials on site.

### **DURING CONSTRUCTION**

74. The following control measures for construction noise, grading and construction activities shall be adhered to, unless otherwise approved by the Director of Community and Economic Development/~~Planning~~ Director or City Engineer:
- a. Grading and construction activities shall be limited to the hours 8:00 AM to **5:00** PM on weekdays; there shall be no grading or construction activities on the weekend or national holidays;
  - b. Grading and construction equipment shall be properly muffled;
  - c. Unnecessary idling of grading and construction equipment is prohibited;
  - d. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical **from** occupied residential housing units;
  - e. Applicant/developer shall designate a “noise disturbance coordinator” who will be responsible for responding to any local complaints about construction noise;
  - f. The developer shall participate in the City’s recycling program during construction.
  - g. Daily clean up of trash and debris shall occur on Grand Street and Sutro Street;
  - h. The **site shall be** watered twice daily during site grading and earth removal work, or at other times as may be needed to control dust emissions;
  - i. All grading and earth removal work shall follow remediation plan requirements, if soil contamination is found to exist on the site;
  - j. **Pave,-** apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
  - k. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
  - l. **Apply (non-toxic) soil stabilizers or hydroseed to inactive construction areas** (previously graded areas inactive for 10-days or more);

- m. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- n. Gather **all** construction debris on a regular basis and place them in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to storm water pollution;
- o. Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work;
- p. Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping;
- q. No site grading shall occur during the rainy season, between October 15 and April 15, unless approved erosion control measures are in place.
- r. Install filter materials (such as sandbags, **filter** fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to: 1) start of the rainy season; 2) site dewatering activities; or 3) street washing activities; and 4) saw cutting asphalt or concrete, or in order to retain any debris or dirt flowing into the City storm drain system. Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash;
- s. Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides or any other materials used on the project site that have the potential for being discharged to the storm drain system through being windblown or in the event of a material spill;
- t. Never clean machinery, tools, brushes, etc., or rinse containers into a street, gutter, storm drain or stream. See ***‘Building Maintenance/Remodeling’*** flyer for more information;
- u. Ensure that **concrete/gunite** supply trucks or concrete/plasters finishing operations do not discharge washwater into street gutters or drains; and
- v. The applicant/developer shall immediately report any soil or water contamination noticed during construction to the City Fire Department Hazardous Materials Division, the Alameda County Department of Health and the Regional Water Quality Control Board.

75. A representative of the soils engineer shall be on the site during grading operations and shall perform such testing as deemed necessary by the City Engineer. The representative of the soils engineer shall observe grading operations with recommended corrective measures given to the contractor and the City Engineer.
76. The minimum soils sampling and testing frequency shall conform to Chapter 8 of the **Caltrans Construction Manual**. The subdivider shall require the soils engineer to daily submit all testing and sampling and reports to the City Engineer.

### **PRIOR TO CONNECTION OF UTILITIES AND ISSUANCE OF CERTIFICATES OF OCCUPANCY**

77. The applicant/developer shall pay the following fees;
- a. Supplemental Building Construction and Improvement Tax;
  - b. School Tax; and
  - c. Park Dedication in-lieu fees for each unit. The amount of the fee shall be in accordance with the fee schedule in effect at the time of issuance of the building permits.
  - d. Water Facilities Fee and Sewer Connection Fee for each dwelling unit at the rate in effect when the utility service permit for the dwelling unit is issued.
78. No certificate of occupancy for any of the dwelling units within the development shall be issued until the sanitary sewer improvements described in the City sanitary sewer project titled "Meek Avenue Sanitary Sewer Line Replacement Project", Project No. 613-7507, Drawing File No. E-1552, have been constructed and accepted by the City.
79. A reduced pressure backflow preventer shall be installed behind the water meter per City of Hayward Standard Detail 202.
80. Prior to granting occupancy, water services shall be installed by City crews at the developer's expense. The application for water services shall be presented to the City Inspector.
81. Prior to the City setting the water meters, the subdivider shall provide the Water Department with certified costs covering the installation of the public water mains and appurtenances.
82. All common area landscaping, irrigation and other required improvements shall be installed according to the approved plans.
83. The street light electrodes shall be in operating condition as approved by the City Engineer.

**PRIOR TO CITY APPROVAL OF THE TRACT IMPROVEMENTS AS BEING COMPLETED**

84. All tract improvements, including the complete installation of all improvements relative to streets, fencing, sanitary sewer, storm drainage, water system, underground utilities, etc., shall be completed and attested to by the City Engineer before approval of occupancy of any unit. Where facilities of other agencies are involved, such installation shall be verified as having been completed and accepted by those agencies.
85. All common area landscaping, irrigation and other required improvements shall be installed prior to acceptance of tract improvements, or occupancy of 80 percent of the dwelling units, whichever first occurs.
86. The improvements associated with the Pacific Gas and Electric Company, Pacific Bell Company and TCI Company shall be installed to the satisfaction of the respective companies.
87. The subdivider shall submit an “as built” plan indicating the following:
  - a. All the underground facilities, sanitary sewer mains and laterals, water services (including meter locations), Pacific Gas and Electric, Pacific Bell facilities, TCI, etc; and;
  - b. All the site improvements, except landscaping species, buildings and appurtenant structures.

## CONDITIONS OF APPROVAL

USE PERMIT, SITE PLAN REVIEW & VARIANCE APPLICATION NO. 99-130-16

DeNova Homes. (Applicant)

1. Unless the developer has applied for a building permit within two years of the date that City Council has approved the tentative vesting map, the use permit, site plan review and variance application becomes void, unless prior to that time, an extension is submitted and approved. A request for an extension must be submitted at least 30 days prior to expiration of the use permit, site plan review and variance application+
2. All improvements shown on Exhibit- “A” shall be installed prior to occupancy unless exempted by the conditions below.
3. Prior to the issuance of the first building permit, detailed landscaping and irrigation plans for all common areas shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscaping and irrigation plans shall comply with the City’s Water ***Efficient Landscape Ordinance***. Plans shall include, but not be limited to the following:
  - a. One 24-inch box ***Geijera parviflora*** (Australian Willow) is required every 20 feet in the planting strip adjacent to D Street. One **24-inch** box ***Cercis canadensis*** (Eastern Redbud) is required every 20 feet in the planting strip adjacent to Grand Street. Trees shall be planted to fill vacancies in the street tree pattern, and to replace any declining or dead trees. Trees shall be planted with root barriers and according to the City Standard Detail SD-122.
  - b. On Grand, Sutro and D Streets, the park strip between the curb and sidewalk shall be planted with low growing shrubs 2-3 feet in height. Landscaping in the park strip shall be maintained by the owner.
  - c. A permanent trellis with evergreen vines, or an upright-growing evergreen shrub shall be planted between each set of garage doors.
  - h. Masonry or pre-cast concrete walls shall be screened on the street side with shrubs and planted **with *Parthenocissus tricuspidata*** (Boston Ivy) at a maximum spacing of 10 feet. A minimum 3-foot-wide planting area, landscaped with low-growing shrubs and groundcovers, shall be provided in front of the walls facing Grand and Sutro Streets. Masonry walls or fences facing a street or common area within the development shall be buffered with shrubs and vines.
  - i. Landscaping at the top of the retaining wall along to D Street shall include **5-gallon *Rosmarinus officinalis ‘Prostratus’*** (Dwarf Rosemary) planted 30 inches apart and trained to spill over the wall.
  - j. Parking areas shall include one 24 inch box tree for every 3 parking stalls. Parking lot



trees shall be planted adjacent to the parking area and in landscaped medians at the ends of parking rows.

- k. A minimum 10-foot wide landscape strip shall be provided in the common area along the property line abutting the railroad right-of-way. A **minimum** of one **15-gallon *Sequoia sempervirens*** (Coast Redwood) shall be planted every 15 feet. Understory shrubs shall be planted between the trees to achieve a **solid** screen within 2 years.
- l. A **minimum** of one **24-inch** box tree with upright growth habit shall be planted in each private yard abutting the project perimeter.
- m. Landscape plans shall detail site amenities such as, benches, tables, fencing, play equipment and barbecues, for the common open space areas. A tot lot shall be located within the group open space area. Permanent seating (benches or seat wall(s)) shall be placed adjacent to the area.
- n. The plant palette shall be revised to exclude palms, and to provide a planting scheme that enhances the architectural style of the project. A mixture of evergreen and deciduous trees shall be incorporated throughout the site. Boxed specimen trees shall be included at key locations. Shrub species and spacing shall be selected to achieve full coverage within 2 years.
- o. All planting areas, tree wells and medians shall be a minimum of **5-foot** wide measured inside the curbs.
- p. All trees shall be planted according to the City's Standard Detail SD-122.
- q. All above ground utilities, mechanical equipment and trash enclosures shall be screened from view with shrubs.
- r. Landscaped areas adjoining drives and/or parking areas shall be separated by a **6-inch** high class "**B**" Portland Cement concrete curb.
- s. The irrigation system shall be on a separate meter. A reduced pressure backflow device shall be installed at the point of connection.
- t. The private yard and/or terrace of each unit shall be provided with a hose bibb.
- u. Landscape improvements shall be installed according to the approved plans and a Certificate of Substantial Completion, and an Irrigation Schedule shall be submitted prior to the issuance of a Certificate of Occupancy.
- v. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and **any** dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within ten days of the inspection. Trees **shall** not be severely pruned, topped or pollarded. Any trees that are

pruned in this manner shall be replaced with a tree species selected by, and size determine-d by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.

4. Decorative pavement sections (interlocking pavers) shall be installed within the vehicle entry areas of the project on Grand and Sutro Streets, and within major pedestrian crosswalks -and entries within the project. The pavers shall be a different color with in the raised arched center of the pattern.
5. The decorative pavement sections at Sutro Street vehicle entrance shall be increased in width to match that proposed for the Grand Street vehicle entrance.
6. The following fences, walls, gates and trellis requirements shall be met:
  - a. Walls and fences shall be designed with decorative features, which may include a **molded** cap, pilasters and **finials**.
  - b. All proposed retaining walls shall be constructed with decorative reinforced concrete.
  - c. Masonry walls, solid building walls, trash enclosures, and/or fences facing a street or driveway shall be buffered with continuous shrubs or vines.
  - d. Provide details indicating how the units that back up to D Street interface with the elevated sidewalk for approval of the Planning Director.
  - e. A decorative 6-foot high masonry or precast wall between decorative **finial topped** pilasters shall be placed along the Grand and Sutro Streets property frontages, along D Street and behind the underpass retaining wall on D Street. The wall shall incorporate decorative insets along the top edge to provide for decorative tubular-metal lattice or other approved material that complements metal trim used on the buildings. If the insets are not feasible due to other requirements (e.g. Acoustical Study), then decorative metal or other ornamentation shall be provided on the wall surface. The design of the inset or ornamentation and its location shall be approved by the Director of Community and Economic Development/Planning Director.
  - f. Project pedestrian gates along D Street and future pedestrian gates along Grand Street frontages and entry to the BART property shall be an open decorative metal type that complements the design of other decorative metal work within the project. If security gates are installed at the Grand and Sutro Street entrances, they are required to be the same design and materials as the pedestrian gates.
  - g. A decorative open metal or solid precast concrete fence shall replace the existing **chain-link** fence located along the north property line that abuts the **BART/railroad** tracks. A decorative open metal fence shall replace the chain-link fence above the underpass retaining wall along D Street. All fencing shall be 6 feet high.

- h. Prior to occupancy of the project a six-foot-high pre-cast-concrete or masonry sound wall shall be erected on the property lines abutting these adjacent properties and the **BART/railroad** tracks. The walls shall incorporate decorative final elements that are incorporated into project entry pilasters.
  - i. The pedestrian entry gate placed along D Streets will incorporate a decorative wood trellis that provides a focal point to the entrance. The design of this structure shall incorporate river rock post bases and be similar to the trellis placed at the entries to the group open space and shall be detailed on the building permit plan.
  - j. All pedestrian gates proposed (current and future) shall be self locking and incorporate an intercom/security key pad lock system, which will allow visitor entry as well as tenant entry.
  - k. Trellises in the common areas and gateway pilasters on Sutro and Grand Streets and trellis elements the are between buildings shall incorporate river rock bases.
7. The following shall be met to assure compliance to noise and vibrations standards:
- a. The building permit plans shall comply with the recommendations of the **Noise Survey Results and Preliminary Acoustical Recommendations** prepared by Wilson, Ihrig & Associates, Inc. and dated December 1, 1999 and the amendments dated March 6, 2000 and May 26, 2000.
  - b. Provide for all units facing Grand Street, an improvement in window glazing. This will be accomplished by providing exterior windows with assemblies possessing a laboratory tested Sound Transmission Class (STC) of not less than 25.
  - c. Install windows that a have a laboratory tested Sound Transmission Class (STC) of not less than 30 for all units in the first row of buildings with a direct line-of-sight facing D Street or the BART/railroad tracks.
  - d. Install windows with a laboratory tested Sound Transmission Class (STC) of not less than 30 in the units facing the **BART/railroad** tracks and in units that have a direct line-of-site with the BART/railroad tracks
  - e. All kitchen and bathroom exhaust fans are to be fitted with acoustically absorbent linings and rooftop-mounted vents are to be oriented with their openings facing away from the noise sources.
  - f. All exterior second floor patios facing D Street, Grand and BART/railroad tracks will be fitted with hinged, glazed plexi-glass covers.
  - g. Behind Buildings XIV, XV, and XVI install a pre-cast a concrete wall on the easterly property line to provide 10 decibels of sound attenuation.

- h. The developer shall disclose in writing the high levels of noise produced by heavy rail line and rail traffic to potential buyers.
- 8. The project shall be maintained in good repair of all building exteriors, fencing, parking surfaces, landscaping, irrigation system, lighting, drainage improvements, trash enclosures, signs, etc.
- 9. No individual television or radio transmission or reception antennas shall be permitted; a central television reception antenna or enclosed attic antennas shall serve all dwelling units. Any satellite dish shall be ground-mounted and screened from view,
- 10. Two project identification signs shall be permitted at the main entry/exit driveway on Grand Street and Sutro Street. The signs shall conform to Sign Ordinance regulations and shall be either a low-monument or wall-mounted type. The sign shall incorporate river rock and a trellis element. Sign design, colors, and materials shall reflect the architectural style of the project and shall be approved by the Director of Community and Economic Development/Planning Director.
- 11. The Director of Community and Economic Development/Planning Director shall approve all building materials and colors, as well as required modifications to the structures. The buildings shall incorporate several combinations of related color schemes to break up and differentiate between the different structures. The design elements shall include the following:
  - a. Horizontal siding with a wood grain texture.
  - b. A minimum of two horizontal siding base colors (one color per building).
  - c. Roofing material shall be tile or a high quality composition shingle with a thick butt and shall be Class “C” or better.
  - d. Canvas awnings shall consist of a material that is resistant to dampness and solar decay. All awnings shall be maintained on a regular basis to prevent deterioration and shall be replaced on a timely basis when needed. The material and colors shall be approved by the Planning Director.
- 12. Lighting shall be provided in the tenant and visitor’s parking areas, group open space areas, and along the project roadways. The type of lighting fixtures and location shall reflect a design that is consistent with the design of the project and shall be approved by the Planning Director. All on-site exterior lighting shall be shielded and deflected away from neighboring residential properties. Pole lighting shall not exceed 16 feet in height unless waved by the Planning Director.
- 13. Mechanical equipment, such as air conditioners, shall be prohibited on the roof.

14. Above ground utilities and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
15. Any transformer pads shall be screened by plant material and/or other approved material and shall be located outside any street frontage setback areas.
16. The vesting tentative map for a townhouse project shall be processed and approved prior to issuance of a building permit **and** shall contain all the information required by the City Municipal Code Section.
17. The **final** vesting map shall be filed and approved by the City and recorded in the County Records Office prior to the issuance of a Certificate of Occupancy of any unit.
18. This permit is tied to Vesting Tentative Map Tract 7191 and all conditions of approval of that map shall apply to this approval also.
19. A detailed grading and drainage plan shall be submitted for the review and approval of the City Engineer. A storm drainage system shall be provided that conveys storm water runoff into facilities of the City or Alameda County Flood Control District. Roof drainage shall be connected into the on-site drainage system.
20. A detailed soils report, analyzing soil and fill expansion and liquefaction potentials, soil preparation, grading and building foundation designs shall be submitted for review and approval of the City Engineer.
21. Parking stall dimensions shall conform to the **City's** Off-street Parking Ordinance.
22. Twenty-eight visitor-parking spaces shall be designated, marked and maintained for visitors' parking. Small car spaces shall be clearly marked. These spaces shall **be** distributed throughout the project as indicated on "Exhibit A".
23. All roadways within the project shall meet minimum City standards for private streets within a townhouse project and shall be a minimum width of 25 feet.
24. A traffic regulatory sign program shall be submitted to the Transportation/Development Manager for review and approval prior to the issuance of the certificate of occupancy. The beginning of the private street within the project at terminus of Sutro Street shall be posted with **signage** that reflects the private street status and that **the** internal street system is not a public thoroughfare.
25. Hose bibs shall not be located in close proximity to parking areas within the project unless they are specially keyed to prevent tenants from washing their vehicles within the confines of the development. If washing of vehicles within the project is desirable, such activity shall be limited to an area that is roofed and drained to the sanitary sewer and the area graded to prevent any other water from entering **the** drain.

26. Prior to the sale of any townhouse, the applicant shall create a Homeowners Association and shall record the **CC&R's**. The CC&R's shall be subject to the review and approval of the City Attorney prior to recordation. The Homeowner Association shall be responsible for implementing all storm water measures, and the maintenance of all private streets, private utilities, and other common areas and facilities on the site, including all landscaping.
27. The property owner or Homeowners Association when formed and given responsibility, shall be responsible for the maintenance of the Common Area Landscaping. Landscaping shall be designed **with** efficient irrigation to reduce runoff and promote surface filtration and minimize the use of fertilizers and pesticides, **which** can contribute to urban runoff pollution.
28. Tenants trash and recycling bins shall be stored in designated areas located within individual garages at **all** times with the exception of designated collection days. This regulation shall be specified in the Homeowner Association **CC&Rs**.
29. Trash from group open space and group facilities shall be removed as reflected in the Homeowner Association **CC&Rs**.
30. The following are City of Hayward Fire Department, Prevention requirements:
  - a. Addressing of the buildings shall be in agreement with the Fire Department. All buildings shall have legible and visible address numbers installed so as to be visible from the street. Minimum address numbers and locations of address numbers shall be determined by the Fire Department.
  - b. Show **the** fire hydrants on revised plans. A civil engineer shall address the fire service lines for the fire hydrants and fire sprinkler systems for the buildings.
  - c. The spa room and lounge shall be addressed separately from the townhouse units. Separate conditions for occupancy will be addressed by the Fire Department.
  - d. Prior to the issuance of a building permit, all building plans shall be reviewed by the Fire Department, Prevention Division and the Building Division for additional construction requirements that shall be imposed.
31. The following are City of Hayward Fire Department, Prevention requirements:
  - a. The applicant must obtain an Environmental and Health Based Clearance from the State Department of Toxic Substance Control prior to issuance of grading or building permits.
  - b. A qualified professional is required to be on-site during the demolition, grading and construction phases to determine if any additional contamination is present. If additional contamination is discovered during the demolition, grading or construction phases, work must **cease** and the Fire Department, Hazardous Materials Office must be contacted immediately. Work cannot begin until clearance is received.

32. The garage of each unit shall be maintained for off-street parking and shall not be converted to living or storage areas. This shall be specified in the Homeowner Association **CC&R's**.
33. An automatic garage door opening mechanism **shall** be provided for all garage doors.
34. Open parking spaces and driveways shall not be used for recreational vehicles, camper shells or boats and trailers. This requirement is to be reflected in the **CC&Rs**.
35. The project shall comply with UBC, UPC, UMC, NEC, Title 24 requirements, and all applicable City amended ordinances.
36. The developer (project proponent) shall be responsible for payment of all required fees (e.g. construction tax, Hayward Unified School District tax, and Supplemental Building, Construction and Improvement tax).
37. The project shall adhere to the Security Ordinance.
38. A project site plan (minimum 4-feet square) indicating all buildings and travelways shall be posted at each vehicular street project entry in such a manner as to provide orientation and direction for visitors and emergency response teams. The location and design of the directional layouts shall be provided on **the** building permit and shall be approved by the Planning Director.
39. Mailboxes shall be grouped within covered decorative shelters that provide adequate area for storage of larger parcels and a receptacle for trash. The design, material and color of these structures shall be consistent with the overall project design theme and shall be approved by the Planning Director.
40. Solid waste containers are to be kept in garages at all times except for designated collection days. This shall be reflected in the Homeowner Associations **CC&Rs**.
41. Mailboxes shall be located on the north end of Building type 10 XVI and at the west end of Building type 13 XII.
42. Buildings types 3, **4A, 5,6, & 7** will include vertical wood trim to break field of shingles.
43. If the developer is unable to obtain the parcel of land located adjacent to the **BART/railroad** tracks on the northeastern corner of the project, then the proposed two units shown on the ends of Buildings XVI and XVII shall not to be constructed.
44. In the event that additional development occurs at the northwestern parcel adjacent to the project site, "Street E" shall extend north and the pedestrian access to Grand Street shall be extended westward from "Street F" per site plan page 1 of "Exhibit A".

45. A decorative archway shall be constructed as a backdrop to the group open space area between Buildings XXVIII and XXIX. The design and placement shall be approved by the Planning Director.



DUE TO THEIR LENGTH, ATTACHMENTS F through I ARE  
AVAILABLE IN THE PLANNING DEPARTMENT AT CITY HALL,  
777 **B** Street